

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 2008-462-C - ORDER NO. 2009-337

MAY 29, 2009

IN RE: Application of Network Innovations,	)	ORDER GRANTING
Incorporated for a Certificate of Public	)	CERTIFICATE OF
Convenience and Necessity to Provide	)	PUBLIC CONVENIENCE
Resold Intrastate Interexchange	)	AND NECESSITY
Telecommunications Services and	)	
Alternative Regulation of Its	)	
Interexchange Service Offerings	)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Network Innovations, Inc. (“Network” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2008) and the rules and regulations of the Commission. By its Application, Network also requests alternative regulation of its business interexchange services consistent with Commission orders, and waiver of certain Commission regulations.

The Commission’s Docketing Department instructed Network to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Network and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Network complied with this

instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

Subsequently, a hearing was convened on March 23, 2009 at 9:30 a.m. in the offices of the Commission in Columbia, South Carolina, before F. David Butler, Esquire, the Hearing Examiner. Network was represented by Scott Elliott, Esquire. The Office of Regulatory Staff (“ORS”) was represented by Shealy B. Reibold, Esquire.

At the outset of the hearing, the Parties presented the Settlement Agreement that was filed with the Commission on February 26, 2009. The Settlement Agreement was admitted into the record as Hearing Exhibit 1 and is attached hereto and incorporated herein as Order Exhibit No. 1. In the Settlement Agreement the Parties represented to the Commission that they had discussed the issues presented in this case and determined that each Party’s interests and the public interest would be best served by settling all issues pending in this case in accordance with the terms and conditions contained in the Settlement Agreement.

Ronald Grason of Network Innovations, Inc. testified in support of the Company’s Application. The record reveals that Network is an Illinois corporation and duly authorized to transact business in South Carolina. According to Mr. Grason, the Company seeks authority as a reseller of interexchange services. Mr. Grason explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. Mr. Grason also discussed Network’s technical, financial, and managerial resources to provide the services for which it seeks authority.

With regard to technical, financial, and managerial capabilities, the Company's Application and Mr. Grason's testimony both evidence that Network's management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Grason also testified that Network will operate in accordance with Commission rules, regulations, guidelines, and Commission orders. Mr. Grason offered that approval of Network's Application would serve the public interest. Mr. Grason provided supplemental financial information to Exhibit C of the Company's Application.

Mr. Grason, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in another state. Network also requested a waiver of any regulation that would require it to maintain its financial records in conformance with the Uniform System of Accounts ("USOA").

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Network is organized under the laws of the State of Illinois as a Corporation, and is authorized to do business in South Carolina by the Secretary of State.
2. Network desires to operate as a provider of resold interexchange services in South Carolina.

3. The Settlement Agreement is incorporated herein by reference, is found to be a reasonable resolution to the issues of this case, found to be in the public interest and is approved.

4. We find that Network possesses the managerial, technical, and financial experience and capability to operate as a provider, through resale, of interexchange services in South Carolina.

5. We find that the issuance of a Certificate of Public Convenience and Necessity to Network to operate as a reseller of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

6. Network requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and of any requirement that it maintain its financial records in conformance with the USOA. The Commission finds Network's requested waivers reasonable and understands the potential difficulty presented to Network should the waiver not be granted.

7. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Network possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Network and as set

forth in its Application and Mr. Grason's testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Network to provide resold intrastate interexchange telecommunications services.

4. The Commission adopts a rate design for Network for its residential interexchange services, if any, which include maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. *In Re: Application of GTE Sprint Communications Corporation, etc.*, Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

5. Network shall not adjust its residential interexchange rates for end-users, if any, below the approved maximum level without notice to the Commission and to the public. Network shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. *In Re: Application of GTE Sprint Communications, etc.*, Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking

proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2008).

6. The Commission concludes that Network's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff

filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

7. We conclude that Network's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would potentially cause undue hardship on that Company. The waiver is not contrary to the public interest. Similarly we conclude that Network's request for waiver of any requirement that it maintain its financial records in conformance with the USOA be granted as well because Network maintains its books and records in accordance with Generally Accepted Accounting Principles ("GAAP").

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Network to provide intrastate interexchange services through the resale of services authorized for resale by tariffs of carriers approved by the Commission within the State of South Carolina.
2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.
3. The Parties shall abide by all terms of the Settlement Agreement.
4. If it has not already done so by the date of issuance of this Order, Network shall file its revised tariff utilizing the Commission's e-filing system for tariffs. The revised tariff should be electronically filed in a text searchable PDF format using the Commission's DMS System (<http://dms.psc.sc.gov>). An additional copy should be sent

via email to [etariff@psc.sc.gov](mailto:etariff@psc.sc.gov) to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff System. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. The Company's service is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Network shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Network changes underlying carriers, it shall notify the Commission and ORS in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Network shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Network shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.



9. Network shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Network shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website and at the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov). This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The South Carolina USF worksheet is due to be filed annually no later than **July 1<sup>st</sup>** with the Commission and ORS.

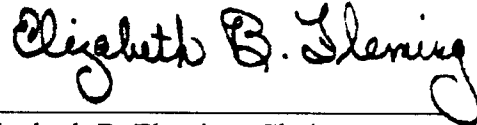
10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Network shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

11. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

12. At the hearing, Network requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2008). The Commission finds Network’s requested waiver reasonable and understands the potential difficulty presented to Network should the waiver not be granted. The Commission therefore grants the requested waiver. However, Network shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Network shall promptly notify the Commission and ORS if the location of its books and records changes.

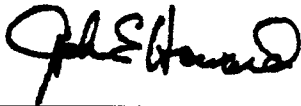
13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Elizabeth B. Fleming, Chairman

ATTEST:



John E. Howard, Vice-Chairman

(SEAL)

**BEFORE**

**THE PUBLIC SERVICE COMMISSION OF**

**SOUTH CAROLINA**

**DOCKET NO. 2008-462-C**

**In Re: )**  
**Application of Network Innovations, Inc. )**  
**for a Certificate of Public Convenience )**  
**and Necessity to Provide Resold Intrastate )**  
**Interexchange Telecommunications )**  
**Services and Alternative Regulation of its )**  
**Interexchange Service Offerings )**

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Settlement Agreement”) is made by and among the Office of Regulatory Staff (“ORS”) and Network Innovations, Inc. (“Network” or “the Company”) (collectively referred to as the “Parties” or sometimes individually as “Party”);

WHEREAS, on December 31, 2008, the Company filed its Application requesting: (i) a Certificate of Public Convenience and Necessity be granted authorizing the Company to provide resold interexchange services, specifically point to point and dedicated private line type services, throughout the State of South Carolina; (ii) alternative regulation of its interexchange services and private line services consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) for waiver of certain Commission Regulations, specifically Regulation 103-610 regarding location of records; and (iv) a waiver of any requirement to maintain financial records in conformance with the Uniform System of Accounts (“USOA”) because the Company utilizes Generally Accepted Accounting Principles (GAAP) to maintain its books and records;

WHEREAS, on January 6, 2009, counsel for ORS entered a Notice of Appearance in this

matter;

WHEREAS on January 7, 2009, the Commission issued a Notice of Filing and Hearing and established a return date of February 6, 2009, for the filing of letters of protest or petitions to intervene and established a hearing date of March 23, 2009, for the application to be heard before a hearing examiner;

WHEREAS, on January 7, 2009, the Commission issued its Order No. 2009-6 by which the Commission appointed David Butler, Esquire as the Hearing Examiner in this matter;

WHEREAS, on February 12, 2009, Hearing Examiner Butler issued a directive setting forth a new prefiling schedule which allowed for a three day extension for all deadlines at the Company's request;

WHEREAS, on February 12, 2009, the Company pre-filed the direct testimony of Rick Stern with the Commission;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its requests: (i) for a Certificate of Public Convenience and Necessity to provide resold interexchange services, specifically point to point and dedicated private line services, within the State of South Carolina; (ii) for alternative regulation of its interexchange services consistent with Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997 in Docket No. 2000-407-C; (iii) for waiver of certain Commission Regulations, specifically Regulation 103-610 regarding location of records; and (iv) for waiver of any requirement to maintain financial records in conformance with the USOA;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide the services requested in the Application;

WHEREAS, ORS has reviewed the Application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, ORS has reviewed the prefiled testimony of Rick Stern;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer point-to-point and private line services on a resold basis throughout the state of South Carolina; (b) the Company does not intend to offer prepaid calling cards or any switched interexchange services; (c) the Company's officers possess sufficient technical and managerial abilities to adequately provide the services applied for; (d) based upon the information provided, the Company appears to have access to sufficient financial resources necessary to provide the services proposed in its application; (e) the Company's proposed tariffs with the amendments as agreed to in this Settlement Agreement comply with Commission statutes and regulations; (f) the services provided by the Company will meet the service standards required by the Commission; (g) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; (h) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; and (i) the provision of services by the Company will not adversely impact the public interest;

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

- 1) The Parties agree that the Company's Application and exhibits to the Application are incorporated into this Settlement Agreement and made a part hereof;
- 2) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Rick Stern without cross-examination by ORS;
- 3) The Company has submitted financial data, which was provided as Exhibit C to the Application and which financial data is incorporated by reference;
- 4) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide resold interexchange telecommunications services within the state of South Carolina;
- 5) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2007) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of Illinois, and the Company agrees to notify the ORS of any change in the

location of the principal office or in the location where the books and records are maintained. This provision of the Settlement Agreement shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2007) or § 58-9-1070 (Supp. 2007). ORS expressly reserves its rights to require the production of books, records, and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

6) The Company has requested a waiver of any rule or regulation that might require a carrier to maintain its financial records in conformance with the USOA. The Company acknowledges that S.C. Code Ann. § 58-9-340 (Supp. 2007) provides that the ORS may, in its discretion and subject to the approval of the Commission, prescribe systems of accounts to be kept by telephone utilities subject to the commission's jurisdiction and that the ORS may prescribe the manner in which the accounts shall be kept and may require every telephone utility to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the ORS. The Company agrees to keep its books, papers, and records in such a manner that permits ORS to audit its revenues and expenses for compliance with programs such as but not limited to the Universal Service Fund ("USF"), the Interim LEC Fund, and gross receipts. The Company agrees to complete the reporting forms for programs such as but not limited to the annual report, USF, Interim LEC, and gross receipts as may be required by the ORS of telecommunications companies certificated to operate within South Carolina and as the reporting forms may be amended from time to time;

7) ORS does not oppose the Company's requests: (a) for alternative regulation of its interexchange private line service offerings consistent with the procedures described and set forth in Orders 95-1734 and 96-55 in Docket No. 96-661-C as modified by Order No. 2001-997



in Docket No. 2000-407-C, specifically (i) regulation of these services listed above in the same manner as these services are regulated for AT&T Communications of the Southern States, Inc., (ii) removal of the maximum rate tariff requirements for Network's private line offerings; (iii) presumptively valid tariff filings for these interexchange services unless an investigation of a particular filing is instituted within seven (7) days, in which case the tariff filing will be suspended until resolution of the investigation or until further order of the Commission; and (iv) allowing Network the same treatment as AT&T Communications of the Southern States, Inc. in connection with any future relaxation of reporting requirements;

8) The Company agrees to resell the services only of those carriers authorized to do business in South Carolina by the Commission. The Company agrees to notify ORS and the Commission, in writing, if it changes its underlying interexchange carriers;

9) The Company agrees that it will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

10) The Company agrees to file necessary financial and/or other information with the ORS and the Commission for universal service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as the Company. The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements.

11) The Company agrees to maintain its books and records in a manner that would permit ORS to examine any of its reports filed with the Commission and provided to ORS.

12) The Company agrees to file with the Commission and ORS a completed

authorized utility representative form within thirty (30) days of the Commission's order.

13) In the event the Company offers prepaid calling card services in the future, it agrees that it shall post a surety bond or certificate of deposit for prepaid services in the amount of \$5,000 as required by the Commission;

14) In the event the Company's business plan changes to include the provision of switched interexchange services, the Company agrees to comply with the verification regulations governing change of preferred carriers as established by Federal Communications Commission ("FCC"). In addition, in the event that the Company offers long distance services to end users, the Company agrees to comply with the marketing practices and guidelines established by the Commission in Order No. 95-658;

15) The Company agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, to the extent applicable, the Company agrees to adhere to the FCC's rule 47 C.F.R. §§ 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

16) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

17) The Company agrees to file a final revised tariff with both the ORS and the Commission and the revised tariff shall reflect and be in accordance with ORS's recommendations as set forth in the summary attached as Exhibit 1 to this Settlement Agreement.

18) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10 (B). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

19) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and that the Commission take no action inconsistent with its adoption. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

20) The Parties represent that the terms of this Settlement Agreement are based upon full and accurate information known as of the date this Settlement Agreement is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Settlement Agreement is based, either Party may withdraw from the Settlement Agreement with written notice to the other Party;

21) The Parties agree that signing this Settlement Agreement will not constrain,

inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation.

22) This Settlement Agreement shall be interpreted according to South Carolina law.

23) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

WE AGREE:

**Representing the Office of Regulatory Staff**

Shealy Boland Reibold

Shealy Boland Reibold, Esquire

Office of Regulatory Staff

1401 Main Street, Suite 900

Columbia, SC 29201

Telephone: (803) 737-0863

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Email: [sreibol@regstaff.sc.gov](mailto:sreibol@regstaff.sc.gov)

2/26/09

Date

**WE AGREE:**

**Representing Network Innovations, Inc.**



\_\_\_\_\_  
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Fax: (803) 771-8010  
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May 29, 2009  
Date

**Recommendations for Network Innovations Interexchange Tariff**

**Original Title Page**—The Company should include a regulatory contact phone number on the Title Sheet.

**Section 1-Technical Terms and Abbreviations**

**Original Page 7 1.1**—The Company should include the following definition—“ORS—The South Carolina Office of Regulatory Staff”.

**Section 2-Rules and Regulations**

**Original Page 20 2.8.3**—The Company should delete in its entirety and replace with the following language—“Simple interest on deposits at the rate not less than that as prescribed by the Commission shall be paid by the telephone utility to each customer required to make such deposit for the time it is held by the telephone utility.” (SC Reg. 103-621.3)

**Original Page 21 2.10.1**—The Company should modify the second paragraph as follows—“Second, if there is still disagreement about the disputed amount after investigation and review by the Company, the Customer, within ten days of the notification or mailing of the Company’s written summary of the findings or resolution of the dispute, a complaint may be filed with the South Carolina Office of Regulatory Staff, 1401 Main Street, Suite 900, Columbia, South Carolina 29201, telephone (803) 737-5230, toll free 1-800-922-1531 in accordance with the Commission rules of procedure. The Public Service Commission of South Carolina shall have primary jurisdiction over customer complaints.”

**Original Page 21 2.11**—The Company should modify the sentence as follows—“State and local sales, use and similar taxes are billed as separate line items and are not included in the quoted rates.”

**Section 3-Description of Service**

**Original Page 26 3.6.2**—The Company should include the following language at the end of the paragraph—“The amount of the Bad Check Charge shall not exceed the amount prescribed in S.C. Code Ann. § 34-11-70.”

**Original Page 26 3.7**—The Company should modify the final sentence in the paragraph as follows—“The Company will file a letter describing the promotion with the PSC and ORS in lieu of filing language in the tariff.”

**Section 4-Rates and Charges**

**Original Page 31 4.3**—The Company should correct the incorrect numbering found is 4.3 (i.e. subsections 3.8.1-3.10.8)

**Original Page 31 3.10.4—The Company should remove the “Billing Fee” or provide a description of the necessity for a “Billing Fee”.**

**Original Page 31 3.9—The Company should correct the numbering in 3.9.**

**Additional Recommendations for the Tariffs**

- 1) If the Company charges any installation, connection, maintenance, or termination charges, etc. (in addition to the services listed in the tariff), these additional charges and the descriptions of the charges should be listed in the tariff with their current and maximum rates.**
- 2) The Company should also provide tariffs and tariff revisions to the South Carolina Public Service Commission as well as the South Carolina Office of Regulatory Staff (S.C. Code Regs. 103-629).**
- 3) If the Company’s Services involve Prepaid Calling Cards, the Company will be required to post a \$5, 000 Surety Bond with the Public Service Commission.**
- 4) The Company is applying for Modified Alternate Regulation by the PSC for its Interexchange tariff. As a general rule, the Company should include maximum rates and current rates for any service that may impact residential customers. Any services that impact Business Long Distance, Consumer Cards, and Operator Services (Including Directory Assistance) are exempt from maximum rates. Only current rates would need to be filed for these services.**
- 5) The Company should include language as it relates to Marketing Practices (SC PSC Order 95-658).**

As a telephone utility under the regulation of the Public Service Commission of South Carolina, the Company hereby asserts and affirms that as a reseller of intrastate telecommunications service, the Company will not indulge or participate in deceptive or misleading telecommunications marketing practices to the detriment of consumers in South Carolina, and the Company will comply with those marketing procedures, in any, set forth by the Public Service Commission. Additionally, the Company will be responsible for the marketing practices of its contracted telemarketers for compliance with this provision. The Company understands that violation of this provision could result in a Rule to Show Cause proceeding as to the withdrawal of its certification to complete intrastate telecommunications traffic within the state of South Carolina. (Commission Order 95-658).